

**Written Document Submitted to The Honorable Steve
LaTourette, Chairman
US House Subcommittee on Railroads
2453 Rayburn House Office Building
Washington, DC 20515**

I wish to thank Chairman La Tourette and this subcommittee for allowing this hearing to examine the extent of the abuse by companies using the loophole in the federal law to operate unregulated waste facilities. I am here today to convey the personal experience that we faced in my town when we discovered there was a plan to construct one of these exempt waste sites. I am here not only as an elected official representing my constituents but also as a resident whose town was subjected to something unknown to anyone there at that point and time. The following facts are important because they give you a visual look into the geographical make-up of my town. Mullica Township is 56 square miles, and we are situated in Atlantic County in South Jersey. We are also located in the heart of the 1.1 million acres of the Pinelands National Preserve. All of our zoning and land use is dictated by the Pinelands Comprehensive Management Plan known as the CMP. There are 2,200 existing homes with 6,000 residents. We have no public sewer or water thus relying fully on personal wells and septic systems. Our tax ratables are comprised of 98% residential and 2% commercial. Although we have 10 miles of state highway Route 30 running through Mullica we have no industrial parks, shopping centers, banks or even a strip mall. We also have running through our town 10 miles of east-west railroad track with a LICA siding but no train stop. The track is owned by New Jersey Transit, a passenger line with a company by the name of JP rail that leases the trackage rights through there.

Being on the Atlantic County Solid Waste Advisory Committee I am familiar with the procedure the owner of a solid waste company must follow in order to start up or expand their operation including the involvement of the DEP, the local town and the County Freeholder Board. In Mullica's case the starting point and added layer of the Pinelands

would be an integral part of the procedure. When we were first made aware of the transrail transfer station proposal I felt safe in my knowledge of the procedures in place. Imagine my shock in finding out that there exists federally-exempted solid waste operations whose only criteria that needs to be met is that they are located next to or near a set of railroad tracks. Can you imagine me trying to explain to a resident who had to make an application to our Zoning Board for a variance to a side yard setback to install a handicap ramp for his son because of local zoning laws that an operation that is proposing to move hundreds of tons of household trash day and night less than a half of a mile from his home did not have to apply to any entity for anything. No applications, no public involvement, no limits in regards to the number of trucks, tonnage or materials including possibly hazardous waste. These are 7 day a week 365 day a year operations running 24 hours a day without the obligations to the districts they reside in that the normal and accepted permitting process would afford their neighbors. As I learned about these sites and the laws that govern them I quickly realized that this is not a local issue but a national one, if it could happen in my town it can and does occur anywhere.

The proposed site in Mullica is a 20-acre parcel in a residential zone located on a four lane divided highway. Because of the medium there is no way to access the property heading west and there are no u-turns for 10 miles, only small local roads to turn around on. It is less than a quarter of a mile from our 800 student local K thru eighth grade school. There are 500 homes within a half-mile of the site, with dozens of homes directly surrounding it, that being the most condensed area of our town. There are also five residential facilities within a half- mile with approximately 75 handicapped occupants many of who walk or wheelchair throughout the area.

In Mullica's case the railroad company was to lease the property for \$1.00 per year from the owner. The owner, not so ironically, is a notorious South Jersey waste hauler. This waste hauler has managed over the past four and a half years to build up over a million dollars in unpaid fines assessed by the DEP, the County Health Department and the neighboring town where his trash business was operating. He plead guilty to two counts of illegal dumping in Mullica has a \$184,000.00 outstanding balance on a

\$199,000.00 fine. According to DEP documents he has frequently failed to comply with the conditions of his solid waste permit and conditions. The DEP finally denied his permit renewal application, terminated his existing permit and revoked his authority to operate his solid waste facility in 2005. This is the same individual that was to operate the Mullica transrail facility under two newly formed companies called Elwood Brokerage and Elwood Transloading LLC.

Mullica's journey through the process of fighting our proposed transrail transfer station was different than any other towns up to that point, we were very lucky. Because we are 100% Pinelands we had the full weight of the Commission along with the States Attorney Generals office to deal with the legal strategy along with our town solicitor and Atlantic County attorneys. We had Congressman Lobiondo and State Senator Bill Gormley along with our State Assemblymen and County officials. Federal Judge Simandles December 23rd. 2005 decision to keep the injunction that the Pinelands filed for in place until such a time the railroad decides to pursue the lawsuit to operate or drop the development of our site has saved us untold grief. Although we are more fortunate than our non-pineland neighbors our relief will never be more than temporary as long as the exemption stands in the law.

Our fortune to date has not come without a great emotional toll on myself, our governing body and the residents of our town who of course had to bear the financial impact of this battle. I was personally named as a witness in the railroads lawsuit concerning intergovernmental plans and my efforts to frustrate and block the project.

The towns seeking relief in the form of regulation where these exempted operations are concerned are not NIMBYS. We are not saying we don't want you in our town so go to the next one, there are laws in place now that prevent that from happening with regulated sites. With respect to solid waste we are asking that laws be distributed fairly and without prejudice, that the solid waste industry as a whole be required to operate in an environmentally responsible manner. When it comes to a private industry that operates on a national level there is only one practical solution, anyone receiving and transporting

solid waste needs to be regulated under the same set of rules. The number of states and towns that are grappling with this issue are growing daily; the time to act is now.

Respectfully Submitted by
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